

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Edenvale Avenue Planned Development Rezoning Project.

PROJECT FILE NUMBER: PDC14-060

PROJECT DESCRIPTION:

Planned Development Rezoning from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow for up to 26 single family detached residential units.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The approximately 2.68 gross acre site is located on the east side of Edenvale Avenue, approximately 1,000 feet north of Chynoweth Avenue in San Jose CA 95136; APN: 685-03-002

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Melissa Lander, HMH, 1570 Oakland Road, San Jose, CA, (408) 487-2200

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FOREST RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- D. **BIOLOGICAL RESOURCES.**

Impact BIO-1. Site development during the raptor nesting season and nesting bird season (February 1 through August 31) could result in the abandonment of an active nest. The mortality of individuals that may result would constitute a significant adverse impact.

Mitigation Measure: BIO-1. Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31. If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the latter part of the breeding season (May 1 through August 31). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with California Department of Fish and Wildlife, shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction. The applicant shall submit a report to the City's Environmental Senior Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the removal of any trees and prior to issuance of any grading or building permit.

Impact BIO-2. Special-status bats may be particularly vulnerable to harm or mortality during project construction activities requiring tree removal if they occur during the winter torpor (hibernation) period (generally mid-October through the end of February), or during the maternity season (generally mid-April through the end of August).

Mitigation Measure BIO-2. Pre-construction surveys for roosting bats shall be conducted by a qualified bat biologist prior to any tree removal on the project site. The

applicant shall submit a report to the City's Environmental Senior Planner indicating the results of the survey, and identifying any further actions necessary, to the satisfaction of the Director of Planning prior to the removal of any trees and prior to issuance of any grading or building permit.

Impact BIO-3. Development of the proposed project would result in the loss of up to 79 trees on the site, 48 of which would be considered protected under the City's Tree Ordinance.

Mitigation Measure BIO-3. All trees that are to be shall be replaced in accordance to the following and at the following ratios:

Mitigation trees shall be above and beyond standard landscaping. Riparian planting, and required Street Trees do not count towards meeting these mitigation measures. The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the City's Environmental Senior Planner in the Department of Planning, Building, and Code Enforcement.

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree loss ratio				
Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City's Environmental Principal Planner, at the development permit stage:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks and schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.

E. CULTURAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

- F. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- G. **GREENHOUSE GAS EMISSIONS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- H. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- I. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- J. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- K. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- L. **NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- M. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- N. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- O. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- P. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- Q. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- R. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **September 17th, 2015**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Harry Freitas, Director
Planning, Building and Code Enforcement

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Meenaxi R. P.